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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/530,364

11/14/2005

Claudio Lacagnina

07040.0217

2971

22852

7590

08/31/2009

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EXAMINER

KNABLE, GEOFFREY L.

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

08/31/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/530,364

Applicant(s)

LACAGNINA, CLAUDIO

Examiner

Geoffrey L. Knable

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19, 21-25, 29-31, 33, 34 and 37-55 is/are pending in the application.
- 4a) Of the above claim(s) 37-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19, 21-25, 29-31, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/27/09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/23/2009 has been entered.

2. Newly submitted claims 37-55 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The originally claimed invention (now claims 19, 21-25, 29-31, 33 and 34) and the invention of newly submitted claims 37-55 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The common technical features between the originally claimed invention and the newly claimed invention is (1) (for new claims 37+ and 48+) a tire building method/apparatus in which the tread is applied by spirally winding on the belt on an auxiliary drum and the belt is picked up and coaxially centered with the carcass disposed on a primary drum, and (2) (for new claim 55) forming treads by spiral winding. These common features however are not special technical features as they represent known features in this art in view of for example the prior art as applied in the 4/11/2008 office action, i.e. Hollmann (US 4,283,241) and Okada et al. (US 2001/0002608). The originally claimed invention and the newly claimed invention therefore lack the same or corresponding special technical features and thus do not relate to a single general

inventive concept. Note that the special technical features of the newly claimed invention are the combining of spiral tread building with regular full width tread building in a single plant/line, these not being part of the originally claimed invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. **Accordingly, claims 37-55 are withdrawn from consideration as being directed to a non-elected invention.** See 37 CFR 1.142(b) and MPEP § 821.03.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 30, 31, 33 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As noted in the last office action, in claim 30, lines 21 and 23, no antecedent has been established for "said strip-like element" - it appears that "like" should be deleted.

As noted in the last office action, at five lines from the end of claim 30, no literal antecedent has been established for the reference to positioning again in "axial alignment relationship" - it appears that this should read "coaxial-alignment relationship" to avoid this ambiguity and be consistent with line 12 as well as more clearly define the intended relationship.

In the last three lines of claim 30 as amended, it is not entirely clear what additional apparatus features are required by these lines. For example, do these lines

require sufficient supply devices at the primary drum so that plural parts are supplied? Or do these lines simply define a capability of assembling component parts, in which case it would not even be clear that these lines require anything beyond the primary drum as an operator could assemble an additional component manually at a primary drum if desired. Clarification is therefore required of what additional apparatus features are required by these lines.

As noted in the last office action, claims 33-34 each depend from cancelled claim 32.

5. Claims 30 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 3-114737 to Toyo Tire.

JP '737 is applied for the same reasons as set forth in the last office action. With respect to the last three lines of claim 30, as noted above, these lines can be read as simply requiring a *capability* of assembly at the primary drum, it being submitted that regardless of whether any assembly actually is designed to take place at the shaping drum in JP '737, an operator could apply an additional component and thereby perform assembly on the primary drum - this language does not clearly require anything more.

6. Claims 30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 3-114737 to Toyo Tire taken in view of at least one of [Irie (US 4,468,267 - newly cited) and Kondo et al. (US 5,413,653 - newly cited)].

JP '737 is applied for the same reasons as set forth in the last office action. With respect to the new requirement in claim 30 that the "apparatus is configured to dispose the carcass structure on the primary drum by assembling component parts of the

carcass structure on the primary drum", if this is interpreted to require some actual supply devices, etc. to perform actual assembly, such would have been obvious in view of at least one of Irie and Kondo et al. In particular, JP '737 does not appear to describe the operation at the primary drum "1" in detail and therefore does not specifically suggest some assembly occurring at the primary drum (it being noted that element "9" in fig. 1 is apparently a tread stitcher, per an oral translation of the description of element "9" at col. 14). In this art, however, it is well known and conventional that tire carcasses are either formed in two stages using two different drums (a band building drum and a shaping drum) or in a single stage using a single unistage drum (i.e. a drum for both building and shaping) - Irie (esp. col. 1, lines 10+) and Kondo et al. (esp. col. 9, lines 4-15 evidencing single stage building/shaping and col. 10, lines 19-24 evidencing the obvious alternative of two stage assembly) are merely exemplary. Further, in single stage building, assembling is clearly occurring on the shaping drum. Further, even in two stage building, including at least some assembly at the shaping drum is also well known and conventional - note suppliers "E" in Irie and col. 10, lines 21-24 of Kondo et al. indicating that bead setting can occur at the shaping drum. In view of these teachings, it would have been obvious for the ordinary artisan to perform at least some assembly at the primary drum of JP '737, for either a single stage or two stage carcass building, for only the expected and predictable results.

7. Claims 19, 21-23, 29-31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okada et al. (US 2001/0002608) taken in view of at least one of [Sasaki et al. (US 4,985,100) and JP 3-114737 to Toyo Tire] and optionally further in

view of at least one of [Irie (US 4,468,267 - newly cited) and Kondo et al. (US 5,413,653 - newly cited)].

Okada et al., Sasaki et al. and JP '737 are applied for the same reasons as set forth in the last office action. As to the new requirement in claim 19 for assembling component parts on the primary drum, it is again noted that drum "14," where assembly clearly takes place, at present reads on the claimed primary drum (there being no requirement that the belt/tread is assembled with the carcass while on the primary drum). Further, even if claim 19 required that the primary drum was restricted to the shaping drum, it would have been obvious to either perform at least some assembly on the shaping drum or perform the assembly and shaping in a single stage on a single drum - Irie and Kondo et al. (as detailed in the preceding rejection) are exemplary of either expedient being well known and obvious in this art for only the expected and predictable results. As to claim 30, as noted in the preceding rejection above, the new claim requirement can be read as simply allowing a capability of assembly at the shaping drum, it being implicit or obvious that an operator could perform some additional assembly at shaping drum "24" of Okada. In any event, it also would have been obvious to either perform at least some assembly on the shaping drum or perform the assembly and shaping in a single stage on a single drum - Irie and Kondo et al. (as detailed in the preceding rejection) are exemplary of either expedient being well known and obvious in this art for only the expected and predictable results.

8. Claims 19, 21-23, 29-31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over at least one [Sasaki et al. (US 4,985,100) and JP 3-114737 to Toyo

Tire] taken in view of Okada et al. (US 2001/0002608) and Miyamoto et al. (US 5,399,225) and further in view of at least one of [Irie (US 4,468,267 - newly cited) and Kondo et al. (US 5,413,653 - newly cited)].

Sasaki et al., JP '737, Okada et al. and Miyamoto et al. are applied for the same reasons as set forth in the last office action. With respect to the new requirement for assembly on the primary drum, such would have been obvious in view of at least one of Irie and Kondo et al. In particular, Sasaki et al. and JP '737 do not appear to describe the operation at the primary/shaping drum in detail and therefore do not specifically suggest some assembly occurring at the primary drum (it being noted that element "9" in fig. 1 of JP '737 is apparently a tread stitcher, per an oral translation of the description of element "9" at col. 14). In this art, however, it is well known and conventional that tire carcasses are either formed in two stages using two different drums (a band building drum and a shaping drum) or in a single stage using a single unistage drum (i.e. a drum for both building and shaping) - Irie (esp. col. 1, lines 10+) and Kondo et al. (esp. col. 9, lines 4-15 evidencing single stage building/shaping and col. 10, lines 19-24 evidencing the obvious alternative of two stage assembly) are merely exemplary. Further, in single stage building, assembling is clearly occurring on the shaping drum. Further, even in two stage building, including at least some assembly at the shaping drum is also well known and conventional - note suppliers "E" in Irie and col. 10, lines 21-24 of Kondo et al. indicating that bead setting can occur at the shaping drum. In view of these teachings, it would have been obvious for the ordinary artisan to perform at least some

assembly at the primary/shaping drum of Sasaki et al. or JP '737, for either a single stage or two stage carcass building, for only the expected and predictable results.

9. Claims 24, 25 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over [Okada et al. (US 2001/0002608) taken in view of at least one of [Sasaki et al. (US 4,985,100) and JP 3-114737 to Toyo Tire] and optionally further in view of at least one of [Irie (US 4,468,267 - newly cited) and Kondo et al. (US 5,413,653 - newly cited)]] or [at least one [Sasaki et al. (US 4,985,100) and JP 3-114737 to Toyo Tire] taken in view of Okada et al. (US 2001/0002608) and Miyamoto et al. (US 5,399,225) and further in view of at least one of [Irie (US 4,468,267 - newly cited) and Kondo et al. (US 5,413,653 - newly cited)]] as applied above, and further in view of Caretta et al. (US 2001/0042586) as applied in the last office action.

10. Applicant's arguments filed 6/23/2009 have been fully considered but they are not persuasive.

Applicant's arguments stress the new language added to claims 19 and 30. These arguments have been addressed within the statements of rejection above. Further, with respect to claim 19, and as previously set forth with respect to claim 28, at present claim 19 does not define over terming the assembly drum 14 of Okada et al. a "primary drum" as it is coaxial and the claim does not require this be the drum where toroidal shaping and assembly with the belt/tread take place. In any event, as noted in the statement of rejection, performing at least some assembly on a shaping drum in this art is well known, conventional and obvious for only the expected and predictable results.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 571-272-1220. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Geoffrey L. Knable/
Primary Examiner, Art Unit 1791

G. Knable
August 28, 2009